

MINUTES OF BENTON COUNTY QUORUM COURT

June 23, 2011

A regular meeting of the Benton County Quorum Court was held on Thursday, June 23, 2011 at 6:00 p.m. at the Benton County Administration Building, 215 East Central Avenue, Bentonville, Arkansas, pursuant to proper call and notice.

County Judge Robert D. Clinard called the meeting to order.

Deputy Clerk Janet Reaves called roll as follows:

13 JP's Present: King, Winscott, J. Harrison, Allen, K. Harrison, Hawkins, Jones, Sandlin, Douglas, Blaty, Curry, Carr, Moore

A legal quorum was present.

The presiding officer led the pledge of allegiance to the flag. Pastor Ronnie Swadley of the Haven Family Worship Center led the prayer.

CHANGES TO THE AGENDA:

JP Allen made motion to amend the agenda to add an appropriation ordinance for machinery and equipment as Item "F", seconded by JP Carr.

Motion passed by unanimous show of hands.

JP Hawkins made motion to amend the agenda to add a resolution authorizing Robert "Bob" Payne to solemnize a marriage as Item "G", seconded by JP Moore.

Motion passed by unanimous show of hands.

MINUTES:

JP Moore made motion to approve the minutes of the May 26, 2011 Quorum Court meeting, seconded by JP Douglas.

ELECTED OFFICIALS REPORT:

None

COUNTY JUDGE'S REPORT:

County Judge Bob Clinard reported that: 1) the damage from the April flooding event has been estimated by the Road Department and FEMA at approximately \$1.2 million in bridge replacement, repair, and road reconstruction, and the county is expecting approximately \$850,000 in reimbursements. He stated that due to the flood damage, all other planned work has been delayed; 2) Benton County West Road Facility bids will be taken in the next three weeks; 3) the Juvenile Justice Center construction is ongoing with no major issues, and a plan is being developed to bid the landscaping for the facility which was not in the original scope of work for the project; 4) the Public Service Building plans are complete and will be let out for bid in early July; 5) Benton County Courthouse HVAC upgrades will not be completed until the electrical service is upgraded. He added that there is not enough electrical power on the south side of the building to operate the HVAC, heaters, and everything else that is being added. He said that the upgrades are being considered and pricing is in progress; 6) the U.S. Marshal's Service Safety and Security Report on the courthouse is complete, and that he and Captain Mike Jones of the Sheriff's Department will be reviewing that report on Monday; 7) the Master Gardeners have started to plant flowers and do the landscaping around the courthouse; 8) there will be a road trip this Saturday to view a subdivision in Lowell and two bridges that are being considered for reconstruction. He added that discussion on road maintenance in subdivisions will be held at the next Transportation Committee meeting.

COMMITTEE REPORTS:

JP Allen stated that the Finance Committee met on June 7, 2011 and that all of the items on the Quorum Court agenda were forwarded with a do-pass recommendation.

JP Douglas stated that the Transportation Committee received reports on storm damage in Benton County and on Road Department vehicles that have been purchased through the Federal Surplus Depot. He stated that the Transportation Committee will take a tour of county bridges and the new West Side Road Yard property on Saturday, June 25, 2011 at 9:00 a.m.

PUBLIC COMMENTS:

Chair of the Ozark Regional Transit Board, Jerry Van Hoose, thanked the Quorum Court for all of the time that has been given to hear the Ozark Regional Transit request.

Warren Phillips of Cave Springs spoke in opposition of the Ozark Regional Transit ¼-cent sales tax increase for public transportation.

Mayor Bill Edwards of Centerton expressed his concerns with the routes for surrounding cities that have been proposed by Ozark Regional Transit.

Phyllis Lafferty of Bella Vista stated that Benton County voters should have the opportunity to vote on Ozark Regional Transit's request.

Glenda Phillips of Cave Springs spoke in opposition of the Ozark Regional Transit ¼-cent sales tax increase for public transportation.

Carole Westby of Bella Vista expressed concern for what will happen if the para-transit services provided by Ozark Regional Transit are eliminated. She requested that Phil Pumphrey, Executive Director of Ozark Regional Transit, be recognized to explain the para-transit service.

Phil Pumphrey stated that Ozark Regional Transit's para-transit service is a curb-to-curb service available on request, in which the rider up is picked at the location, although they Transit Service employee cannot enter the homes for liability reasons. He stated that the para-transit service would expand to include Siloam Springs, Gentry, Decatur, Springtown, and other cities if approved. He stated that the number of trips are now monitored because there are not enough funds to cover trips out into the county everyday of the week. He added that under the Americans with Disabilities Act, if people cannot access a fixed route within three-quarters of a mile on either side or the end of a fixed route, Ozark Regional Transit is required to provide complimentary para-transit service. He added that the vehicles used for this service have to be able to accommodate wheelchairs, either through a ramp or lift.

Wayne Phillips of Bentonville spoke in opposition of Ozark Regional Transit's ¼-cent sales tax increase for public transportation.

Sherrie Miller of Bentonville expressed her opinion for the need for Ozark Regional Transit public transportation.

Billy McConnell of Bentonville spoke in favor of the Ozark Regional Transit ¼-cent sales tax increase.

Jane Kelly of Bentonville encouraged the court to support the Ozark Regional Transit ¼-cent sales tax increase.

Bill Millager of Rogers spoke in favor of the Ozark Regional Transit ¼-cent sales tax increase for public transportation.

JP Harrison made motion to suspend the rules and read all ordinances and resolutions by title only, seconded by JP Sandlin.

There being no discussion, a roll call vote was recorded as follows:

13 yeas: King, Winscott, J. Harrison, Allen, K. Harrison,
Hawkins, Jones, Sandlin, Douglas, Blaty, Curry,
Carr, Moore

Motion passed.

OLD BUSINESS:

None

NEW BUSINESS:

- (A) Proposed Resolution Endorsing the Concept of Submitting to the Electors of Benton County the Levying of a ¼ Cent Sales Tax for Public Transit; Sponsor: JP Tom Allen

JP Sandlin stated that some modifications for this proposed resolution were discussed at the Committee of Thirteen and forwarded to County Attorney George Spence. JP Sandlin made motion that the court use the corrected version of the proposed resolution which has been drafted by County Attorney George Spence, seconded by JP Curry.

County Attorney George Spence stated that two changes to the proposed resolution were requested by the Committee of Thirteen: 1) the requirement that it be on the May primary ballot; and 2) that Ozark Regional Transit would reimburse the county for the cost of the election.

Motion passed by unanimous voice vote.

County Attorney George Spence read the amended version of the proposed resolution.

- (A) A Resolution Endorsing the Concept of Submitting to the Electors of Benton County the Levying of a ¼-Cent Sale Tax for Public Transit Based on Certain Conditions

JP Allen made motion to approve the amended resolution, seconded by JP Blaty.

JP Allen stated that he supports the idea of public transportation and agrees that there is a need. He stated that increasing Ozark Regional Transit's budget from \$1 million to \$15 million does not sit well with him, because he does not know how that kind of money will be managed. He added that sales tax dollars are needed for many things, and that he personally would rather support a sales tax for bridges. He added that his constituents are asking for bridges that the county cannot pay for, and that bridges are a life safety issue.

He stated that the ¼-cent sales tax request is the maximum sales tax increase that Ozark Regional Transit could have asked for; it is not mandated that they ask for ¼-cent, and that Ozark Regional Transit could have asked for less.

County Attorney George Spence stated that the statute that is cited in the resolution states that Ozark Regional Transit can ask for up to ¼-cent sales tax or less. JP Allen stated with that said, he would vote against the ¼-cent sales tax increase.

JP Moore stated that Ozark Regional Transit has met his personal stipulations that the election not be held as a special election, but in conjunction with the Preferential Primary Election in May, and that they are willing to pay their share of the election costs. He added that he still does not feel comfortable voting against allowing the people to vote; people will vote for or against it depending on how they feel about it, and the people should be allowed to vote on Ozark Regional Transit's request. He stated that the majority of his constituents live within the corporate limits of Siloam Springs and would potentially benefit from the new service being offered to them. He added that he will be voting to allow the people in his district to vote on this.

JP Winscott stated he would be in favor of giving the voters an opportunity to vote if he had been getting feedback from his constituents, but he has not been getting feedback. and therefore that he will be voting against the resolution request.

JP Douglas stated that this resolution request is endorsing the concept of submitting the question to the electors, and if it passes, an ordinance calling the election would then have to be passed by the Quorum Court. He stated if this resolution request does not pass, that does not mean it is the end of the request. He said that Ozark Regional Transit could still go back to the cities that are receiving service and ask them to approve a ballot issue.

Jerry Van Hoose stated that the cities are now putting up a certain amount of money to maintain the present level of service in the county, and would have to double what they are paying now.

JP Douglas stated that he was all for letting the people to vote, if the court makes sure that what is put out there for the people to vote on is fair. He added that this is not a fair tax, and that he could not support the resolution request.

JP Kevin Harrison stated that he represents Rogers, Arkansas and that he will vote for the resolution request.

JP Blaty stated that the biggest concern of the constituents that have contacted her is giving tax money to a business.

Phil Pumphrey stated that Ozark Regional Transit is set up under state statutes as a regional transportation authority, and is therefore a subdivision of the state government. He stated that there are eight board members that are appointed by the Mayors of Fayetteville, Springdale, Bentonville, and Rogers, and that the four counties are Benton, Carroll, Madison and Washington. He stated that Ozark Regional Transit is overseen by a board, an accounting firm

that audits them every three years, and by the American Public Transit Association.

County Attorney George Spence stated that Ozark Regional Transit is a public entity.

County Judge Bob Clinard stated that Greg Hall, a resident of Benton County, is his appointee to the Ozark Regional Transit board.

There being no further discussion, a roll call vote was recorded as follows:

4 yeas: K. Harrison, Sandlin, Carr, Moore

9 nays: King, Winscott, J. Harrison, Allen, Hawkins, Jones,
Douglas, Blaty, Curry

Resolution failed.

- (B) Proposed Resolution Authorizing the County Judge to Settle a Potential Claim Against the County by Giving a Deed to Certain Property; Sponsor: JP Tom Allen

County Attorney George Spence read the proposed resolution by title only. JP Allen stated was forwarded from the Finance Committee and the Committee of Thirteen with a do pass recommendation, and made motion to adopt, seconded by JP Carr.

There being no discussion, a roll call vote was recorded as follows:

13 yeas: King, Winscott, J. Harrison, Allen, K. Harrison,
Hawkins, Jones, Sandlin, Douglas, Blaty, Curry,
Carr, Moore

Resolution duly adopted and assigned **No. R-2011-19.**

- (C) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2010-56 (2011 Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Department 07, Assessor, Fund 070; Sponsor: JP Tom Allen.

County Attorney George Spence read the proposed appropriation ordinance by title only. JP Allen made motion to adopt, seconded by JP Jones.

There being no discussion, a roll call vote was recorded as follows:

13 yeas: King, Winscott, J. Harrison, Allen, K. Harrison,
Hawkins, Jones, Sandlin, Douglas, Blaty, Curry,

Carr, Moore

Appropriation ordinance duly adopted and assigned **No. O-2011-28.**

- (D) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2010-56 (2011 Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Department 44, County Road Department, Fund 020; Sponsor: JP Tom Allen.

County Attorney George Spence read the proposed appropriation ordinance by title only. JP Allen made motion to adopt, seconded by JP Jones.

There being no discussion, a roll call vote was recorded as follows:

13 yeas: King, Winscott, J. Harrison, Allen, K. Harrison,
Hawkins, Jones, Sandlin, Douglas, Blaty, Curry,
Carr, Moore

Appropriation ordinance duly adopted and assigned **No. O-2011-29.**

- (E) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O-2010-56 (2011 Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Department 49, Information Systems, Fund 010; Sponsor: JP Tom Allen

County Attorney George Spence read the proposed appropriation ordinance by title only. JP Allen made motion to adopt, seconded by JP Jay Harrison.

There being no discussion, a roll call vote was recorded as follows:

13 yeas: King, Winscott, J. Harrison, Allen, K. Harrison,
Hawkins, Jones, Sandlin, Douglas, Blaty, Curry,
Carr, Moore

Appropriation ordinance duly adopted and assigned **No. O-2011-30.**

- (F) Proposed Appropriation Ordinance Amending Appropriation Ordinance No. O- 2010-56 (2011 Benton County Budget) Appropriating Additional Monies and Authorizing Additional Expenditures in Department 49, Information Systems, Fund 010; Sponsor: JP Tom Allen

County Attorney George Spence read the proposed appropriation ordinance by title only. JP Allen made motion to adopt, seconded by JP Sandlin.

Administrator of General Services Elizabeth Bowen stated that due to a power failure in Bentonville, the County Administration Building lost all power and that the county's uninterruptible power supply system failed. She stated this appropriation is to purchase a backup Battery Pack for the Information Systems Department. She added that this is a critical battery backup system which keeps the Central Communications systems up and running.

There being no further discussion, a roll call vote was recorded as follows:

13 yeas: King, Winscott, J. Harrison, Allen, K. Harrison,
Hawkins, Jones, Sandlin, Douglas, Blaty, Curry,
Carr, Moore

Appropriation ordinance duly adopted and assigned **No. O-2011-31.**

(G) Proposed Resolution Authorizing Robert "Bob" Payne to Solemnize the Marriage of Nathan Allen Bagwell to Veronica Jeanne Carroll on July 16, 2011 in Rogers, Arkansas; Sponsor: JP Kevin Harrison.

County Attorney George Spence read the proposed appropriation ordinance by title only. JP Kevin Harrison made motion to adopt, seconded by JP Carr.

There being no discussion, a roll call vote was recorded as follows:

12 yeas: King, Winscott, J. Harrison, Allen, K. Harrison,
Hawkins, Jones, Sandlin, Douglas, Blaty, Carr,
Moore
1 nay: Curry

Resolution duly adopted and assigned **No. R-2011-20.**

OTHER BUSINESS

None

ANNOUNCEMENTS:

JP Allen announced that the Finance Committee will meet July 5, 2011 at 5:30 p.m.

JP Douglas announced that the Transportation Committee will meet July 7, 2011 at 6:00 p.m.

JP Moore announced that the Committee of Thirteen will meet July 12, 2011 at 6:00 p.m.

JP Blaty announced that the Grievance Committee will meet June 30, 2011 at 4:30 p.m.

There being no further business to come before the court, upon motion and second the meeting adjourned at 7:22 p.m.

Respectfully submitted,

Tena O'Brien,
County Clerk

Prepared by: Janet Reaves